

Introduction

In 1990, the General Assembly created the North Carolina Sentencing and Policy Advisory Commission. The membership represented a broad spectrum of the criminal justice system including judges, prosecutors, defense attorneys, law enforcement officers and victims, as well as members of the legislature, executive branch agencies, and citizens. The General Assembly charged the Commission with, among other things, recommending structures for use by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case.

Before developing any structures, the Sentencing Commission developed a set of principles to guide its decisions. Structured Sentencing is based on the following principles:

- **Sentencing policies should be truthful:** The time actually served in prison or jail should bear a close and consistent relationship to the sentence imposed by the judge. Early parole release is abolished.
- **Sentencing policies should be consistent:** Offenders convicted of similar offenses, who have similar prior records, should generally receive similar sentences.
- **Sentencing policies should be rational:** The sentence should be proportional to the severity of the crime as measured by the harm to the victim and to the offender's prior record.
- **Sentencing policies should set resource priorities:** The use of prisons and jails should be prioritized first for violent and repeat offenders and community-based programs should be first utilized for nonviolent offenders with little or no prior record.
- **Sentencing policies should be balanced with correctional resources:** Sentencing policies should be supported by adequate prison, jail and community-based resources.

The Sentencing Commission spent three years developing its actual recommendations. First, it developed a system for classifying criminal offenses based on the type and degree of harm that resulted from them. Next it developed a system for classifying offenders by their prior criminal history. These two pieces of information formed the axes for the sentencing structure. The structure indicates the range of sentence lengths and the types of sentences that are authorized for that offense and that offender. Generally, the judge is not allowed to depart from the sentencing options authorized by the structure. However, the judge does have discretion within those options to tailor the actual sentence to fit the facts of the case. The judge has a range of sentence lengths to choose from in every case and, for offenders who commit less serious offenses and have little or no prior record, the judge has the choice of whether to impose probation with conditions or send the offender to prison. This structure provides a rational basis for the sentence, allows the State to predict resource needs of the criminal justice system, and provides integrity to the system as a whole.

In 1993, the General Assembly reviewed, amended and adopted the Commission's recommendations. The primary piece of legislation was called the Structured Sentencing Act and applies to all felony and misdemeanor offenses (except for "driving while impaired," "driving